

ORDER OF THE MISSOURI BOARD OF PHARMACY
ISSUING DEREK STEVEN RAY AN INTERN LICENSE
SUBJECT TO PROBATION

Comes now the Missouri Board of Pharmacy ("Board") and issues its ORDER granting a PROBATED intern pharmacist license, license number 2008016620, to Derek Steven Ray, ("Ray") pursuant to the provisions of Section 620.149, RSMo. As set forth in Section 620.149, RSMo, Ray may submit a written request for a hearing to the Administrative Hearing Commission seeking review of the Board's decision to issue a probated license to Ray. Such written request must be submitted to the Administrative Hearing Commission within thirty (30) days of issuance of this Order. The written request should be addressed to the Administrative Hearing Commission, P.O. Box 1557, Truman Building Room 640, Jefferson City, MO 65102-1557. If no written request for review is received by the Administrative Hearing Commission within the thirty (30) day period, the right to seek review of the Board's decision shall be waived.

The disciplinary period shall become effective immediately upon issuance of Ray's license as an intern pharmacist. Should Ray file a written request for review of this Order, the terms and conditions of the Order shall remain in force and effect unless and/or until such time as the Administrative Hearing Commission issues an order contrary to this Order.

FINDINGS OF FACT

1. The Missouri Board of Pharmacy (hereinafter "Board") is an agency of the State of Missouri created and established pursuant to Section 338.110, RSMo, for the purpose of executing and enforcing provisions of Chapter 338, RSMo.

2. Derek Steven Ray filed an application for an intern pharmacist license with the Board on April 30, 2008.

3. Based on information received by the Board, pursuant to Section 338.055, RSMo, the Board concluded Derek Steven Ray engaged in conduct which would be grounds for disciplinary action by the Board and would constitute grounds for the Board to refuse to issue Ray an intern license.

4. Pursuant to the provisions of Section 620.149, RSMo, the Board hereby issues intern license number 2008016620 to Derek Steven Ray in lieu of denial of Ray's request for a license to practice as an intern pharmacist in Missouri. License number 2008016620 is issued subject to the terms and conditions set forth herein below.

5. On the application Ray stated that he consumed alcohol while under the legal drinking age and that he suffered from alcoholism. He further stated that he had been in treatment for the alcoholism since February 2006.

6. On the application Ray stated that he had violated the drug laws of Missouri, another state or country, or of the United States.

7. On the application Ray stated that he has been or is currently addicted to drugs, controlled substances or alcoholic beverages.

CONCLUSIONS OF LAW

8. Ray's conduct as alleged above is cause for the Board to deny Ray an intern license to practice pharmacy pursuant to Section 338.055.1 and .2, RSMo, which states in pertinent parts:

1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

* * *

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

9. Section 620.149, RSMo, provides in pertinent part:

1. Whenever a board within the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

10. The Board hereby issues this ORDER in lieu of denial of Ray's request for a Missouri intern pharmacist license pursuant to Section 620.149, RSMo.

ORDER

Based on the foregoing and in lieu of denying Derek Steven Ray an intern pharmacist license, the Board issues Ray a license subject to PROBATION for three (3) years (hereinafter "disciplinary period"). The terms of discipline shall be:

1. Ray shall keep the Board apprised of his current home and work addresses and telephone numbers. If at any time Ray is employed by a temporary employment agency or maintains employment that requires frequent daily or weekly changes of work locations he must provide the Board a list of locations worked if requested by the Board or Board's representative.

2. Ray shall pay all required fees for licensing to the Board and shall renew his license prior to December 31 of each licensing year.

3. Ray shall comply with all provisions of Chapter 338, Chapter 195, and all applicable federal and state drug laws, rules and regulations and with all federal and state criminal laws. "State" here includes the State of Missouri and all other states and territories of the United States.

4. Ray shall make himself available for personal interviews to be conducted by a member of the Board or the Board of Pharmacy staff. Said meetings will be at the Board's discretion and may occur periodically during the disciplinary period. Ray will be notified and given sufficient time to arrange these meetings.

5. If, after disciplinary sanctions have been imposed, the Ray ceases to keep his Missouri license current or fails to keep the Board advised of his current place of employment and residence, such periods shall not be deemed or taken as any part of the time of discipline so imposed.

6. Ray shall provide all current and future pharmacy and drug distributor employers and pharmacist/manager-in-charges a copy of this disciplinary order within five (5) business days of the effective date of discipline or the beginning date of each employment. If at any time Ray is employed by a temporary employment agency he must provide each pharmacy and drug distributor employer and pharmacist/manager-in-charge a copy of this disciplinary order prior to or at the time of any scheduled work assignments.

7. Ray shall provide all current and future pharmacy schools/colleges where enrolled a copy of this disciplinary order within five (5) business days of the effective date of discipline or the beginning date of each new enrollment.

8. Ray shall report to the Board, on a preprinted form supplied by the Board office, once every six (6) months, beginning six (6) months after this Order becomes effective, stating truthfully whether or not he has complied with all terms and conditions of his disciplinary order.

9. Ray shall submit to periodic blood tests and/or urinalysis, at Ray's cost. The timing and/or scheduling for testing is within the Board's sole discretion.

10. Ray shall complete an alcohol/drug abuse counseling and treatment program approved by the Board. Said program shall meet the requirements set forth in 20 CSR 2220-2.170 (6).

a. Documentation required for counselor/program approval must be submitted to the Board office and Ray's counselor/program must receive Board approval within three (3) months after the effective date of this Order. Any unexpected or requested change in treatment counselor/program shall be submitted to the Board within ten (10) days of the change; and the program approval process must again be completed.

b. Ray shall, within six (6) weeks of the effective date of this Order, undergo an evaluation for chemical dependency performed by a licensed or certified chemical dependency professional. Ray shall cause the results of the evaluation to be mailed directly to the Missouri Board of Pharmacy, P.O. Box 625, Jefferson City, Missouri 65102 within ten (10) days after the evaluation has been completed. Each evaluation report shall include the licensee's present state of impairment; a description of the tests performed and the results; discussion of relevant clinical interview findings/interpretations; specification of DSM IV diagnosis/es; appropriate treatment recommendations/plan; the beginning date of treatment; and an assessment for future prospects for recovery. If there is no diagnosis requiring treatment, this should be reported in the evaluation. Ray shall follow any treatment recommendations made by that chemical dependency professional.

c. Ray shall provide a copy of this Order to all chemical dependency professionals involved in Ray's treatment, and all medical professionals issuing/renewing a controlled substance, carisoprodol, nalbuphine, or tramadol prescription to Ray. Said disclosure shall be made before the evaluation required in Paragraph b, before the issuance of any new prescriptions and, in the case of renewed/refilled prescriptions, disclosure shall be made within ten (10) days of the effective date of this Order. Ray shall simultaneously report to the Board office that said disclosure has taken place.

d. Ray shall execute a medical release effective for the entire disciplinary period authorizing any chemical dependency professional or medical professional to release records and/or communicate with the Board, or its representative, regarding Ray's treatment. Ray shall not take any action to cancel this release. Ray shall take all steps necessary to continue the release in effect and shall provide a new release when requested.

e. Ray shall cause a report of ongoing treatment evaluation to be submitted from the board-approved chemical dependency professional to the Board office on the schedule

prescribed by 20 CSR 2220-2.170(6)(E). The report shall be completed by the treating professional within four weeks prior to the date it is due. The report shall include an evaluation of Ray's current progress and status related to the treatment recommendations/plan, and Ray's current prognosis as well as revised treatment recommendations/plan.

f. Ray shall submit evidence of weekly (or counselor recommended) attendance at Alcoholics Anonymous, Narcotics Anonymous, or other support group meetings to the Board once every six (6) months throughout the disciplinary period. The documentation shall include the date, time, and place of each meeting and shall bear a signature or abbreviated signature of another person verifying attendance.

g. If the treatment of Ray is successfully completed at any time during the disciplinary period, Ray shall cause the board-approved chemical dependency professional to submit a report of final evaluation/summary.

h. Ray shall abstain completely from the use or consumption of alcohol in any form, including over-the-counter medications and mouthwashes. The presence of any alcohol or alcohol metabolite whatsoever in a biological fluid sample shall constitute a violation of discipline.

i. Ray shall provide the Board office, within ten (10) days of the effective date of this Order, a copy of all controlled substance prescriptions, dispensed or to be dispensed, in Ray's possession on the effective date of discipline. The following information shall be provided: the prescription number, drug name, strength, dosage instructions, prescriber's name and address, the name and address of the pharmacy where the prescription was dispensed, date dispensed, number of refills available, and any other requested information concerning the prescription.

j. Ray shall abstain completely from the personal use or possession of any controlled substance or other drug for which a prescription is required unless use of the drug has been prescribed by a person licensed to prescribe such drug and with whom Ray has a bona fide relationship as a patient. Upon request, Ray shall execute a medical release authorizing the medical professional that prescribed the controlled substance or other drug for which a prescription is required to release records and/or communicate with the Board, or its representative, regarding Ray's treatment. The presence of any controlled substance whatsoever in a biological fluid sample for which Ray does not hold a valid prescription shall constitute a violation of discipline. Ray shall provide the Board with a copy of each prescription received, controlled or non-controlled, within five (5) days of Ray's receipt of the prescription.

k. Ray shall inform any professional preparing a prescription for Ray that Ray is chemically dependent.

11. When the Well-being Committee created in 2007 by Senate Bill 195 in Section 338.380 is established, fully functional, and fully operational, Ray is required to become a participant in the Committee's program for the remainder of the disciplinary period. The Board will notify Ray when this occurs and Ray will bear all the costs of the program.

12. Ray's failure to comply with any condition of discipline set forth herein constitutes a violation of this disciplinary Order.

13. The parties to this Order understand that the Board of Pharmacy will maintain this Order as an open record of the Board as provided in Chapters 338, 610, 620, RSMo.

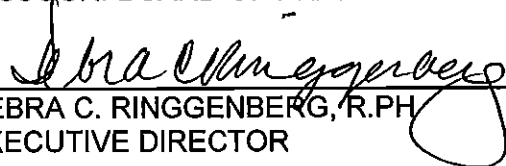
Upon the expiration of the disciplinary period, Ray's license as an intern pharmacist shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the Board determines that Ray has violated any term or condition of this Order, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Ray's license.

No order shall be entered by the Board pursuant to the preceding paragraph of this Order without notice and an opportunity for a hearing before the Board in accordance with provisions of Chapter 536, RSMo.

If the Board determines that Ray has violated a term or condition of this Order, which violation would be actionable in a proceeding before the Administrative Hearing Commission or the Circuit Court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Order in its determination of appropriate legal actions concerning that violation.

SO ORDERED this 24th day of June, 2008.

MISSOURI BOARD OF PHARMACY



DEBRA C. RINGGENBERG, R.Ph.
EXECUTIVE DIRECTOR